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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,512	10/23/2003	John Anthony Pacione	T1222-25-US (194133-34025)	6050
27155	7590	06/14/2005	EXAMINER	
MCCARTHY TETRAULT LLP SUITE 4900, P.O. BOX 48 66 WELLINGTON ST. WEST TORONTO, ON M5K 1E6 CANADA			CHOI, STEPHEN	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/690,512	<b>Applicant(s)</b> PACIONE ET AL.	
	<b>Examiner</b> Stephen Choi	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) 6 and 9 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-5, 7, 8 and 10-13 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/8/05</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Species A in the reply filed on 07 April 2005 is acknowledged. The traversal is on the ground(s) that the searching required for any of the species identified by the Examiner would appear to cover much the same ground, with little, if any, additional searching required to address the various alternatives. This is not found persuasive because the applicants have not traverse the restriction requirement on the ground that the species are not patentably distinct with evidence showing the species to be obvious variants or clearly admit on the record that this is the case. Thus, rejoinder of species is subject to the allowance of generic claim. However, the invention claimed in the generic claim is held to be unpatentable over the prior art as set forth below, leaving claims joined thereby without a common inventive feature.

The requirement is still deemed proper and is therefore made FINAL.

***Specification***

2. The disclosure is objected to because of the following informalities: page 14, line 7, "functioning 56" is not understood.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 5, 7, 10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Heijnis et al. (US 3,353,754).

Heijnis discloses all the recited elements of the invention including:

- a) a rotatable blade having an edge which is non-linear radially (2);
- b) a counter-knife having an edge generally conforming to a profile of the blade edge (10).

5. Claims 1-5, 7-8, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US 3,084,582).

Anderson discloses all the recited elements of the invention including:

- c) a rotatable blade having an edge which is non-linear radially (19);
- d) a counter-knife having an edge generally conforming to a profile of the blade edge (20).

Regarding claims 2-3 and 11-12, col. 2, lines 32-58. Regarding claims 4 and 7, a portion of the blade edge can first rotate past the counter-knife to cut a portion of the carpet pile adjacent a base of the carpet first and the blade edge has a portion capable of cutting an edge of the carpet with an edge on the counter-knife having a profile conforming the portion of the blade edge. Regarding claim 13, the blade is shaped such that it is capable of cutting portions that are perpendicular and angled relative to the plane of the carpet base.

### ***Conclusion***

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaufman, Lewallyn '048 and '505 are cited to show related devices.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sc  
26 April 2005

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**